

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference D68PAT1226WO	FOR FURTHER ACTION	
		See Form PCT/IPEA/416
International application No. PCT/FR2004/000704	International filing date (day/month/year) 22.03.2004	Priority date (day/month/year) 16.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant FOCAL-JMLAB (S.A.)		

<ol style="list-style-type: none"> This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. This REPORT consists of a total of _____ sheets, including this cover sheet. This report is also accompanied by ANNEXES, comprising: <ol style="list-style-type: none"> <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 																								
<ol style="list-style-type: none"> This report contains indications relating to the following items: <table border="0"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> 	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- the international application as originally filed/furnished
 the description:
 pages 1-11 as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
- the claims:
 nos. 1-20 as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____
- the drawings:
 sheets 1/3-3/3 as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____
- a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:
- the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. IV Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:
 - restricted the claims.
 - paid additional fees.
 - paid additional fees under protest.
 - neither restricted the claims nor paid additional fees.
2. This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:
 - complied with.
 - not complied with for the following reasons:
4. Consequently, this report has been established in respect of the following parts of the international application:
 - all parts.
 - the parts relating to claims Nos. _____

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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1. Statement

Novelty (N)	Claims <u>2, 4-8, 11-18</u>	YES
	Claims <u>1, 3, 9, 10, 19, 20</u>	NO
Inventive step (IS)	Claims _____	YES
	Claims <u>1-20</u>	NO
Industrial applicability (IA)	Claims <u>1-20</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

See Supplemental Box

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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

See supplemental Box

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

See supplemental Box

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box III

The use of the word "preferably" in claim 1 means that the features that follow are optional.

However, if the features that follow the word "preferably" in claim 1 were taken into account, said claim would be considered to differ from document D1 by virtue of the mechanical coupling between the movable coil and the surface of the diaphragm dome. But under these circumstances, given that claim 13 relates to a method for making the diaphragm by shaping and claim 14 relates to a shaping tool, and that the method and the tool are unrelated to the mechanical coupling, the application would then consist of two inventions (PCT Rule 13) that are not linked by a common inventive concept.

Boxes VII and VIII

Under said circumstances, claim 1 would also be considered to relate to a result to be achieved but not to the teaching leading thereto, because no indication is given in said claim, or indeed anywhere in the description, of the location where the coil should be connected depending, for example, on the weight and diameter parameters, in such a way that lower frequencies are reproduced with a high output. The result is a lack of teaching (PCT Article 5).

Furthermore, the term "high" is vague and renders the subject matter of the claim unclear (PCT Article 6).

Supplemental Box**Box V**

Reference is made to the following documents:

- D1: PATENT ABSTRACTS OF JAPAN vol. 0170, no. 97 (E-1326), 25 February 1993 (1993-02-25) -& JP 04 287498 A (YAMAHA CORP), 13 October 1992 (1992-10-13)
- D2: GB 2 245 591 A (SKY ALUMINIUM) 8 January 1992 (1992-01-08)
- D3: US 4 847 981 A (SUZUKI KUNIO ET AL) 18 July 1989 (1989-07-18)

The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claims 1, 3, 9, 10, 19 and 20 does not meet the requirement of novelty defined in PCT Article 33(2). Document D1 describes a loud speaker, particularly a "tweeter" or "medium" speaker, comprising a direct-radiation spherical diaphragm with a concave surface facing the movable coil, wherein the resulting dome is made of a single piece of pure beryllium (see the abstract and figure 1). The use of the word "preferably" in claim 1 means that the features that follow are optional. Therefore, document D1 is considered to deprive the subject matter of the above-mentioned claims of novelty.

Claims 13 and 14 are not considered to involve an inventive step (PCT Article 33(3)) in the light of documents D2 and D3, which describe a method for shaping thin films made of metals or alloys (see document D2, abstract, page 3, lines 18-25 and page 4, line 28 to page

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Supplemental Box

5, line 17) under high pressure and at a high temperature using a tool characterised in that it comprises an upper mould and a lower shape (see D3, column 2, lines 6-57 and column 3, lines 1-32).

The other dependent claims likewise do not appear to contain any features that might involve an inventive step.